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09/661,636	09/13/2000	Abraham Rabindranath Matthews	1384.002US1	7671

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SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.  
P.O. BOX 2938  
MINNEAPOLIS, MN 55402

EXAMINER

KAPADIA, MILAN S

ART UNIT PAPER NUMBER

2144

DATE MAILED: 05/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/661,636

Applicant(s)

MATTHEWS ET AL.

Examiner

Milan S Kapadia

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 22 March 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

*Notice to Applicant*

1. This communication is in response to the amendment filed 22 March 2004.  
Claims 1-20 are pending. Claims 8, 10, and 12 have been amended.

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-3, 5, 7-9, 11, 13-15, and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kessler et al. (5,841,973) in view of Passint et al. (5,581,705).

- (A) As per claim 1, Kessler discloses a method of packet routing, comprising:  
connecting a plurality of processors in a network (Kessler; abstract);  
assigning a unique processor identifier (PEID) to each of the processors (Kessler; abstract);  
routing a first packet to a first one of the processors across the network,  
wherein each such packet includes a -PEID value corresponding to a PEID of one of the processors, and wherein the routing to the first processor is based on the PEID

value in the first packet (Kessler; abstract and col. 7, lines 23-36);

Kessler fails to expressly teach establishing a plurality of objects in the first processor, assigning a logical queue identifier (LQID) to a first one of the objects in the first processor, wherein each packet also includes an LQID value corresponding to an LQID of one of the objects and routing the first packet to the first object based on the LQID value in the first packet.. However, this feature is old and well known in the art, as evidenced by Passint's teachings with regards to establishing a plurality of objects in the first processor (Passint; abstract), assigning a logical queue identifier (LQID) to a first one of the objects in the first processor (Passint; abstract; the Examiner interprets the "opcode" as a form of "LQID"), wherein each packet also includes an LQID value corresponding to an LQID of one of the objects and routing the first packet to the first object based on the LQID value in the first packet (Passint; abstract). It is respectfully submitted, that it would have been obvious, to one having ordinary skill in the art at the time the invention was made, to expand the system taught by Kessler with Passint's teaching with regards to this limitation, with the motivation of enabling a messaging facility that can be used to accomplish a remote action or initiate a remote procedure (Passint; col. 2, lines 46-47).

(B) As per claims 2 and 3, the combined system of Kessler and Passint collectively fail to expressly teach assigning a plurality of different LQIDs to the first object and routing a plurality of packets each having a different LQID, to the first object based on the LQID value in each respective packet. However, since the combined system of Kessler and Passint collectively teach that the addressing scheme used is customizable (Passint; col. 2, lines 23-38), it is respectfully submitted, that it would have been obvious, to one having ordinary skill in the art at the time the

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invention was made, to expand the system taught by Kessler and Passint to assign a plurality of different LQIDs to the first object and route a plurality of packets each having a different LQID, to the first object based on the LQID value in each respective packet, with the motivation of defining the defining the desired opcode convention (Passint; col. 2, lines 45-53).

(C) As per claim 5, the combined system of Kessler and Passint collectively fail to expressly teach establishing the first LQID with the first object to be used for point-to-point data traffic and establishing a second LQID with the first object to be used for shortcut data traffic. However, since the combined system of Kessler and Passint collectively teach that the addressing scheme used is customizable and also teach using different messaging facilities for different types of packets (Passint; col. 2, lines 23-38 and col. 5, lines 37-40), it is respectfully submitted, that it would have been obvious, to one having ordinary skill in the art at the time the invention was made, to expand the system taught by Kessler and Passint to establish the first LQID with the first object to be used for point-to-point data traffic and establishing a second LQID with the first object to be used for shortcut data traffic, with the motivation of defining the defining the desired opcode convention that would enable the different messaging facilities (Passint; col. 2, lines 45-53).

(D) System claims 7-9, 11, 13-15, and 17 repeat the subject matter of method claims 1-3 and 5, respectively, as a set of apparatus elements rather than a series of steps. As the underlying processes of claims 1-3 and 5 have been shown to be fully disclosed by the teachings of Kessler and Passint in the above rejections of claims 1-3 and 5, it is readily apparent that the system

disclosed by Kessler and Passint include the apparatus to perform these functions. As such, these limitations are rejected for the same reasons given above for method claims 1-3 and 5, and incorporated herein.

4. Claims 4, 10, and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kessler et al. (5,841,973) and Passint et al. (5,581,705) as applied to claims 1, 7, and 13 above and further in view of Stracke (6,047,330).

(A) As per claim 4, the combined system of Kessler and Passint collectively fail to expressly teach wherein an object is associated with a virtual router. However, this feature is old and well known in the art, as evidenced by Stracke's teachings with regards to this limitation. In particular Ham teaches the use of a virtual router in a packet routing system (Stracke; abstract). It is respectfully submitted, that it would have been obvious, to one having ordinary skill in the art at the time the invention was made, to expand the collective system taught by Kessler and Passint with Stracke's teaching with regards to this limitation, with the motivation of creating a more efficient routing system (Stracke; col. 1, lines 12-17).

(B) System claims 10 and 16 repeat the subject matter of method claim 4 as a set of apparatus elements rather than a series of steps. As the underlying processes of claim 4 has been shown to be fully disclosed by the teachings of Kessler and Passint in the above rejections of claim 4, it is readily apparent that the system disclosed by Kessler and Passint include the apparatus to

perform these functions. As such, these limitations are rejected for the same reasons given above for method claim 4, and incorporated herein.

5. Claims 6, 12, and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kessler et al. (5,841,973) and Passint et al. (5,581,705) as applied to claims 1, 7, and 13 above and further in view of Allen et al. (4,667,287).

(A) As per claim 6, the combined system of Kessler and Passint collectively fail to expressly teach wherein the network is configured in a ring topology. However, this feature is old and well known in the art, as evidenced by Allen's teachings with regards to wherein the network is configured in a ring topology (Allen; abstract). It is respectfully submitted, that it would have been obvious, to one having ordinary skill in the art at the time the invention was made, to expand the collective system taught by Kessler and Passint with Allen's teaching with regards to this limitation, with the motivation of enabling more rapid and efficient communication (Allen; col. 1, lines 35-38).

(B) System claims 12 and 18 repeat the subject matter of method claim 6 as a set of apparatus elements rather than a series of steps. As the underlying processes of claim 6 has been shown to be fully disclosed by the teachings of Kessler and Passint in the above rejections of claim 6, it is readily apparent that the system disclosed by Kessler and Passint include the apparatus to perform these functions. As such, these limitations are rejected for the same reasons given above for method claim 6, and incorporated herein.

6. Claims 19 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kessler et al. (5,841,973) and Passint et al. (5,581,705) as applied to claim 13 above and further in view of Kapustka et al. (Kapustka, K., et al., « CoSine Communications Moves VPNs 'Into the Cloud' with Leading Managed IP Service Delivery Platform, » CoSine Communications [http://www.cosinecom.com/news/pr\\_5\\_24.html](http://www.cosinecom.com/news/pr_5_24.html), 5p., May 24, 1999).

(A) As per claims 19 and 20, the combined system of Kessler and Passint collectively fail to expressly teach a services management system that provides changeable provisioning of processor capacity among a plurality of customers and that provides firewall protection for each of a plurality of customers. However, this feature is old and well known in the art, as evidenced by Kapustka's teachings with regards to a services management system that provides changeable provisioning of processor capacity among a plurality of customers and that provides firewall protection for each of a plurality of customers (Kapustka; page 1, paragraphs 1-2 and page 3, paragraph 3). It is respectfully submitted, that it would have been obvious, to one having ordinary skill in the art at the time the invention was made, to expand the collective system taught by Kessler and Passint with Kapustka's teaching with regards to this limitation, with the motivation of providing enabling more efficient scaling of IP services (Kapustka; page 1, paragraph 1).

***Response to Arguments***

7. Applicant's arguments filed 3/22/04 have been fully considered but they are not persuasive. Applicant's arguments will be addressed herein below in the order in which they appear in the response filed 3/22/04.

(A) At pages 6-7 of the 3/2/03 response, Applicant argues that "in Passint, the opcode is decoded to indicate an action and is not used to route a packet to an object within a processor" in reference to claims 1, 7, and 13.

In response, the Examiner respectfully notes that the cited reference was never applied as a reference under 35 U.S.C. 102 against claims 1,7, and 13. As such, the Examiner respectfully submits that the issue at hand is not whether the applied prior art specifically teaches the claimed features, *per se*, but rather, whether or not the prior art, when taken in combination with the knowledge of average skill in the art, would put the artisan in possession of these features. Regarding this issue, it is well established that references are evaluated by what they suggest to one versed in the art, rather than by their specific disclosures, *In re Bozek*, 163 USPQ 545 (CCPA 1969). The issue of obviousness is not determined by what the references expressly state but by what they would reasonably suggest to one of ordinary skill in the art, as supported by decisions in *In re DeLisle* 406 Fed 1326, 160 USPQ 806; *In re Kell, Terry and Davies* 208 USPQ 871; and *In re Fine*, 837 F.2d 1071, 1074, 5 USPQ 2d 1596, 1598 (Fed. Cir. 1988) (citing *In re Lulu*, 747 F.2d 703, 705, 223 USPQ 1257, 1258 (Fed. Cir. 1988)). Further, it was determined in *In re Lamberti et al*, 192 USPQ 278 (CCPA) that:

- (i) obviousness does not require absolute predictability;
- (ii) non-preferred embodiments of prior art must also be considered; and
- (iii) the question is not express teaching of references, but what they would suggest.

According to *In re Jacoby*, 135 USPQ 317 (CCPA 1962), the skilled artisan is presumed to know something more about the art than only what is disclosed in the applied references. In *In re Bode*, 193 USPQ 12 (CCPA 1977), every reference relies to some extent on knowledge of persons skilled in the art to complement that which is disclosed therein.

According to *Ex parte Berins*, 168 USPQ 374 (Bd. Appeals), there is no statutory limitation as to the number of references that may be used to demonstrate obviousness...not what references expressly state but what they would reasonably suggest to one of ordinary skill in the art. In *In re Conrad*, 169 USPQ 170 (CCPA), obviousness is not based on express suggestion, but what references taken collectively would suggest.

In the instant case, the Examiner respectfully submits that Passint does indeed contain a plurality of objects. In Passint an opcode (reads on "LQID") is passed to a processor that then decodes the opcode and performs an action. It is respectfully submitted that in a microprocessor independent entities (reads on "object") are called upon to execute various instructions. Therefore, it is clear that in Passint, after decoding the opcode, a message is sent to an object to perform an action.

(B) At pages 6-7 of the 3/22/04 response, Applicant argues that "Applicant is unable to find in the cited portions of Kessler and Passint, among other things, a teaching or suggestion of routing plurality of packets, each having a different LQID, to a first object based in the LQID value in each respective packet, as recited in the contested claims" in reference to claims 2 and 3. In response, the Examiner respectfully notes that the Examiner never cited any sections of Kessler or Passint as teaching the argued features. Rather the Examiner stated that such

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teaching would have been an obvious modification to the combined system of Kessler and Passint. As stated above in the rejections of claims 2 and 3 and incorporated herein, the system of Kessler and Passint clearly teach that the addressing scheme used is customizable. It is respectfully submitted that once a customizable addressing scheme is known in the art, that it would have been obvious to provide such customizations as forwarding a messages having different identifiers to the same object.

With respect to claim 5, 11 and 17 the Examiner is concerned that, aside from merely alleging that certain claimed features are not obvious from Kessler and Passint essentially in the form of blanket statements, Applicant does not point to any specific distinction(s) between the features disclosed in the references and the features that are presently claimed. In particular, 37 CFR 1.111(b) states, "A general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the reference does not comply with the requirements of this section." Applicant has failed to specifically point out how the language of the claims patentably distinguishes them from the applied references. Also, arguments or conclusions of Attorney cannot take the place of evidence. *In re Cole*, 51 CCPA 919, 326 F.2d 769, 140 USPQ 230 (1964); *In re Schulze*, 52 CCPA 1422, 346 F.2d 600, 145 USPQ 716 (1965); *Mertizner v. Mindick*, 549 F.2d 775, 193 USPQ 17 (CCPA 1977).

Furthermore, in response to Applicant's argument against the Examiner's stated motivation, the Examiner recognizes that references cannot be arbitrarily altered or modified and that there must be some reason why one skilled in the art would be motivated to make the

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proposed modifications. And although the motivation or suggestion to make modifications must be articulated, it is respectfully submitted that there is no requirement that the motivation to make modifications must be expressly articulated within the references themselves. References are evaluated by what they suggest to one versed in the art, rather than by their specific disclosures, *In re Bozek*, 163 USPQ 545 (CCPA 1969). The issue of obviousness is not determined by what the references expressly state but by what they would reasonably suggest to one of ordinary skill in the art, as supported by decisions in *In re DeLisle* 406 Fed 1326, 160 USPQ 806; *In re Kell, Terry and Davies* 208 USPQ 871; and *In re Fine*, 837 F.2d 1071, 1074, 5 USPQ 2d 1596, 1598 (Fed. Cir. 1988) (citing *In re Lalu*, 747 F.2d 703, 705, 223 USPQ 1257, 1258 (Fed. Cir. 1988)). Further, it was determined in *In re Lamberti et al*, 192 USPQ 278 (CCPA) that:

- (i) obviousness does not require absolute predictability;
- (ii) \_\_\_ non-preferred embodiments of prior art must also be considered; and
- (iii) the question is not express teaching of references, but what they would suggest.

According to *In re Jacoby*, 135 USPQ 317 (CCPA 1962), the skilled artisan is presumed to know something more about the art than only what is disclosed in the applied references. In *In re Bode*, 193 USPQ 12 (CCPA 1977), every reference relies to some extent on knowledge of persons skilled in the art to complement that which is disclosed therein.

According to *Ex parte Berins*, 168 USPQ 374 (Bd. Appeals), there is no statutory limitation as to the number of references that may be used to demonstrate obviousness...not what references expressly state but what they would reasonably suggest to one of ordinary skill in the

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art. In *In re Conrad*, 169 USPQ 170 (CCPA), obviousness is not based on express suggestion, but what references taken collectively would suggest.

In the instant case, the Examiner respectfully notes that each and every motivation to combine the applied references are accompanied by select portions of the respective reference(s) which specifically support that particular motivation. As such, it is NOT seen that the Examiner's combination of references is unsupported by the applied prior art of record. Rather, it is respectfully submitted that explanation based on the logic and scientific reasoning of one ordinarily skilled in the art at the time of the invention that support a holding of obviousness has been adequately provided by the motivations and reasons indicated by the Examiner, *Ex parte Levengood*, 28 USPQ2d 1300 (Bd. Pat. App. & Inter., 4/22/93).

### ***Conclusion***

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The cited but not applied art teaches a method and system for assisting a user in a medical self treatment, said self treatment comprising a plurality of actions (6,656,114); a home medical surveillance system (4,838,275); system and method for providing self-screening of patient symptoms (6,383,135); a system and method for developing and selecting customized wellness plan (5,758,083); a medical communication system for ambulatory home care patient

(5,902,234); a medical system and method of controlling the system for use by a patient for medical self treatment (6,540,672).

9.

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Milan S Kapadia whose telephone number is 703-305-3887. The examiner can normally be reached on Monday through Friday, 8:30 A.M. to 5:00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wiley can be reached on 703-308-5221. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9306 for regular communications and 703-872-9327 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

  
mk

May 27, 2004

MARC D. THOMPSON  
MARC THOMPSON  
PRIMARY EXAMINER